

NOTICE OF PROPOSED RULEMAKING

OFFICE OF THE STATE FIRE MARSHAL C.C.R. TITLE 19

NOTICE IS HEREBY GIVEN that the State Fire Marshal proposes to amend the proposed regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Fire Marshal proposes to amend Section 557.9, 560, 560.2, 567, 574.6, 575, 575.1, 575.3, 575.4, 578.1, 578.10, 591.5, 594.3, 594.5, 595.9, 595.10, 59514, 596, 596.1, 596.2, and 596.3 of Title 19 of the California Code of Regulations.

This regulatory action modifies several regulations specific to portable fire extinguishers to align California's regulations with recognized National standards including those found in NFPA 10, Standard for Portable Fire Extinguishers, [1998 edition]. Other regulatory recommendations where the CSFM has not utilized this standard were done to provide increased enforcement to protect the public from unscrupulous fire extinguisher companies as well as various programmatic needs.

PUBLIC HEARING

The State Fire Marshal will hold public hearings as scheduled below:

Date: June 13, 2002
State Fire Marshal
Headquarters Conference Room
1131 S Street
Sacramento, CA 95814
9 am - 11am

Date: June 14, 2002
State Fire Marshal
West Covina Conference Room
1501 W. Cameron Ave, #C-110
West Covina, CA 91790
10 am - 12pm

The public hearing facilities are accessible to persons with mobility impairments. If any special assistance is required (i.e. interpreter), please notify the contact person named in this notice at least 15 days prior to the public hearing.

At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

The State Fire Marshal will accept written comments regarding this regulatory action until 5:00 p.m. on Monday, June 10, 2002.

Send comments to:

OFFICE OF THE STATE FIRE MARSHAL
Attention: Rodney Slaughter, Deputy State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460
E-Mail: rodney_slaughter@fire.ca.gov

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Section 13160, 13161, and 13162.

INFORMATIVE DIGEST - POLICY OVERVIEW

It is the State Fire Marshal's (CSFM) policy to maintain program-related regulations by continuously reviewing the existing regulations against the national standards (when applicable). In response to industry and local government requests as well as organizational needs, the CSFM reviews existing regulations and makes recommendation to update them. The CSFM utilized a Fire Extinguisher Advisory Committee to make recommendations on revising these regulations. The CSFM has worked with this committee on some of the proposed regulations.

MODIFIED SECTIONS

The following sections have been modified to clarify the intent of the regulations without changing the scope or application of the regulations. These sections are:

The following sections have been amended with the justification as shown:

SECTION 557.9 (b). "I" Definitions.

Summary: This section requires an internal maintenance tag.

Proposed Action: To eliminate a definition which is no longer needed.

SECTION 560 (f). General Provisions and Fee Schedule.

Summary: This section requires a \$125.00 fee associated with a change in business location.

Proposed Action: To expand this section to allow the CSFM to recover its costs by assessing a fee anytime a licensee requests a licensing revision, which necessitates a physical inspection by a State Fire Marshal.

SECTION 560.2 (b) (6). Deceptive Practices.

Summary: This section will provide clear direction to the industry that they will have to obtain the business owner or their representative approval of an estimate of what the work will cost and give them the final approval prior to any work beginning. This will limit the practice of fire extinguisher technicians starting service activities without the prior authorization of the business owner or their representative and then giving the business owner a final bill when the work is completed.

Proposed Action: This action is required in response to one of the most often identified complaints received by the CSFM regarding retail portable fire extinguisher concerns.

SECTION 567 (f). Distribution of Fire Extinguishers

Summary: The table reference was not changed the last time the regulations were amended

Proposed Action: To reference the correct table.

SECTION 574.6 (a) (b). Record keeping.

Summary: This section provides a methodology on how portable fire extinguishers should be maintained on a monthly basis by the business owner.

Proposed Action: Specify how the monthly inspection records shall be kept for portable fire extinguishers.

SECTION 575. Servicing, General.

Summary: All fire extinguishers are to be serviced in accordance with the manufacture's requirements. This would necessitate a service company maintain current service manuals in order to comply with the regulations. A scale is required to sell chemical and powder by weight in California.

Proposed Action: Currently, a service company is not required to maintain and utilize a current fire extinguisher service manual even though all fire extinguishers are to be serviced in accordance with the manufacture's requirements. Not servicing a portable fire extinguisher in accordance with the manufacture's requirements voids the UL listing. A service company will also be required to have and use a calibrated scale.

SECTION 575.1 (f) (g) (h) (i). Maintenance and Required Service Intervals.

Summary: This section provides a clear direction to the industry that they will have to allow the business owner or their representative to approve an estimate of what the work will cost and give them the final approval prior to any work beginning. This will also specify that a final invoice listing the work done and any parts replaced on any fire extinguishers, be provided to the business owner or their representative. This will limit the practice of fire extinguisher technicians starting service activities without the prior authorization of the business owner or their representative and then giving the business owner a final bill. This action will also require that any replaced fire extinguisher parts be returned to the fire extinguisher owner or owner's representative except those to be retuned under a warranty arrangement.

Proposed Action: This action is required in response to some of the most frequently identified complaints received by the CSFM regarding retail portable fire extinguisher concerns.

SECTION 575.3 (a) (c) **Maintenance Procedures.**

Summary: This section specifies the annual tear down frequency and reiterates the that the service company is also required to have a scale.

Proposed Action: This section will now align California's tear down frequency for dry chemical and dry powder stored pressure fire extinguishers with the national standard for a six year tear down. A calibrated scale is required to sell chemical and powder by weight in California.

SECTION 575.4 (a) (1) **Maintenance Procedures.**

Summary: Currently in California, the tear down frequency for portable fire extinguishers is on an annual basis and this revision would adopt the NFPA 10 frequency, which is every six years.

Proposed Action: To adopt the NFPA 10 frequency requirement.

578.1 (d) **Recharging, General**

Summary: Currently, a service company is required to have a scale.

Proposed Action: To specify that a calibrated scale will be required to sell chemical and powder by weight in California.

578.10 (a) **Leak Test.**

Summary: Currently, the regulations specify that a leak test shall be performed on a portable fire extinguisher.

Proposed Action: This section would further specify that a leak test shall be performed and the procedures to be used to accomplish a leak test.

591.5 **Replacement Extinguishers.**

Summary: To ensure that the customer is left with a fire extinguisher that is at least equal to what they originally had and that it is done in compliance with Title 19.

Proposed Action: This action is required in response to a frequent complaint received by the CSFM that certain retail portable fire extinguisher concerns are leaving a replacement fire extinguisher that is of poor quality and not comparable to what the consumer owned.

594.3 (a) 1,2,3,4. **Test Equipment for Low Pressure Non-D.O.T. Specification Cylinders and Hose Assemblies.**

Summary: This section specifies the equipment and licensing requirements for testing fire extinguisher equipment.

Proposed Action: To conform to NFPA 10 and specify the equipment and licensing requirements for servicing non-D.O.T. specification cylinders. This is a safety issue for the individual performing the service and the CSFM needs to specify the type of equipment, which is required

594.5 (c) (4) Recording of Tests

Summary: This section provides a documentation process for low-pressure (non-D.O.T.) Cylinders.

Proposed Action: Currently there is no written documentation required for non-D.O.T Cylinders. It has come to the attention of the CSFM, that some portable fire extinguisher concerns are charging customers for hydrostatic testing, but not actually performing the service.

595.5 (a) (3) Fire Extinguisher License Types.

Summary: This section defines the type of license required for servicing fire extinguishers.

Proposed Action: To further define the two elements of this license, which can include D.O.T. cylinders and non-D.O.T. cylinders, and the requirement that a fire extinguisher company possess the necessary test equipment.

595.5 (f) Fire Extinguisher License Types.

Summary: The CSFM is currently using a self-certification process for the concern license.

Proposed Action: To ensure that any prospective licensee has the documented experience to operate a concern. This will provide a basis to evaluate an individual's experience to ensure that a license is issued to only qualified individuals.

595.9 (f) Certificates of Registration.

Summary: The Fire Extinguisher Industry has requested that the CSFM implement a mandatory training program to ensure that qualified individuals are working in this industry.

Proposed Action: This new section will provide a basis to evaluate an individual's experience to ensure that a license is issued to only qualified individuals. This will ensure that applicant's possess the basic knowledge to obtain a certificate of registration and have a level of expertise to safely perform fire extinguisher service work.

595.10 (c) Examination Procedures.

Summary: Currently, the CSFM has no process in place to require any type of re-testing of licensees.

Proposed Action: This change will give the CSFM more flexibility in requiring additional testing of applicants and will facilitate the implementation of a proposed program of recurrent testing and training.

595.14 (a) (b) **Mobile Service Vehicles.**

Summary: Currently, the CSFM has no specific process in place dealing with mobile service vehicles.

Proposed Action: A new requirement to aid in enforcement and to prevent fraudulent practices by service technicians who operate out of a service vehicle.

596 (c) **General.**

Summary: This section requires that an internal maintenance tag be used.

Proposed Action: The references in the regulations to the Internal Maintenance tag are no longer needed since the Internal Maintenance tag has been eliminated as a requirement.

596.1 (a) (10) **Required Information.**

Summary: There is no requirement that a licensed concern print the telephone number of their concern license location on the annual maintenance tag.

Proposed Action: This is an enforcement tool, which will allow the State Fire Marshal or his/her designee to contact the licensed company at the business location they are operating at. Most companies already provide this on their tag, but for consistency purposes, it needs to be specified.

596.1 (d) (8) **Required Information.**

Summary: The hydrostatic test labels must have the 6-yr maintenance information.

Proposed Action: To correct a change which was made in the last regulatory filling where the 6-yr maintenance component was inadvertently deleted.

596.2 (b) **Size and Color and Material**

Summary: There is no longer a requirement that an internal maintenance tag be used.

Proposed Action: The references in the regulations to the Internal Maintenance tag are no longer needed since the Internal Maintenance tag has been eliminated as a requirement.

596.3 (b) **Attaching Tag.**

Summary: There is no longer a requirement that an internal maintenance tag be used.

Proposed Action: The references in the regulations to the Internal Maintenance tag are no longer needed since the Internal Maintenance tag has been eliminated as a requirement.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Mandate on local agencies and school districts: None
2. Cost or savings to any other State agency: None
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Section 17561: None
4. Other non-discretionary cost or savings imposed upon local agencies: None
5. Cost or savings in federal funding to the State: None
6. Cost impact on private persons or directly affected businesses: Many small fire extinguisher service concerns may see a reduction in revenue.
7. Significant adverse economic effect on business including the ability of California businesses to compete with businesses in other States. The amendments to these regulations may have a significant statewide adverse economic impact on the fire extinguisher industry.
8. Significant effect on housing costs: None

In accordance with Government Code Section 11346.3 the following are required responses as State agencies proposing to adopt or amend any administrative regulations shall assess whether and to what extent it will affect the following:

- (a) The creation or elimination of jobs within the State of California: None
- (b) The creation of new businesses or the elimination of existing businesses within the State of California: None
- (c) The expansion of businesses currently doing business within the State of California: None

SMALL BUSINESS EFFECTS

The State Fire Marshal has made an initial determination that the amendments to these regulations may have a significant statewide adverse economic impact on business. The SFM anticipates that the proposed change in teardown frequency may adversely affect the entire fire extinguisher servicing industry. The proposed regulations will directly affect small businesses; small fire extinguisher service companies will have a reduced revenue stream and may be adversely effected as they are not as diversified as the larger full service fire extinguisher companies. Conversely, private persons and business owners who are required to maintain a portable fire extinguisher may realize a slight savings from the change of tear down frequency change.

CONSIDERATION OF ALTERNATIVES

No alternatives considered by the State Fire Marshal would be more effective in carrying out the purpose for which the regulations are proposed, or would be as effective or less burdensome to affected private persons than the proposed regulations. The CSFM anticipates the adoption of these regulations will affect the portable fire extinguisher industry.

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquires concerning the substance of the proposed action or requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based may be directed to:

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P.O. Box 944246
Sacramento, California 94244-2460
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Alternate:

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Fax: (916) 445-8458
E-mail: marc_yepez@fire.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office of the State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, shown above. As of this date, this notice is published in the Notice Register. The State Fire Marshal has prepared an initial statement of reasons for the proposed action. The full text of the regulations, along with the final statement of reasons upon which the changes are based is available from the contact person as shown. Copies may be obtained by contacting Rodney Slaughter at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the hearing, the State Fire Marshal may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text – with changes indicated – shall be made available to the public for at least 15 days prior to the date which the State Fire Marshal adopts, amends or repeals the regulations. Requests for copies of any modified regulations should be sent to Rodney Slaughter at the address indicated above. The State Fire Marshal will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of the Initial Statement of Reasons and the text of proposed regulations, highlighted in underline and strikeout, can be accessed through our website at <http://osfm.fire.ca.gov>.